



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Administrative Forfeiture: New Publication Timeline for the Notice of Seizure and Intent to Forfeit

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice announces that U.S. Customs and Border Protection (CBP) is changing its processes concerning the publication of the Notice of Seizure and Intent to Forfeit for CBP seizures and administrative forfeitures. Currently, CBP neither publishes the Notice of Seizure and Intent to Forfeit online (available at www.forfeiture.gov) nor does it post such a notice, if required, at the appropriate U.S. Customhouse or U.S. Border Patrol Station or Sector office until the administrative process has been exhausted. CBP will now publish the Notice of Seizure and Intent to Forfeit online and, if required, post it at the appropriate U.S. Customhouse or U.S. Border Patrol Station or Sector office at approximately the same time that it first sends a written Notice of Seizure to the party or parties it has identified as potentially having an interest in property seized by CBP. The new publication timeline will make the administrative forfeiture process more efficient without affecting the rights or obligations of any interested party.

DATES: This general notice is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.]

FOR FURTHER INFORMATION CONTACT: Lisa Santana Fox, Director, Fines, Penalties and Forfeitures Division, Office of Field Operations, U.S. Customs and Border Protection at (202) 344-2150 or lisa.k.santanafox@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

U.S. Customs and Border Protection (CBP) has the authority to seize property for violations of customs laws and other laws enforced by CBP. *See, e.g.*, Title 19, United States Code Section 482 (19 U.S.C. 482), 19 U.S.C. 1581, and 19 U.S.C. 1602; *see also* Title 19, Code of Federal Regulations Section 162.21 (19 CFR 162.21). CBP has the authority to administratively forfeit property if the seized property meets certain conditions. 19 U.S.C. 1607. Generally, seized property is eligible for administrative forfeiture if it is a conveyance used to unlawfully import, export, transport, or store a controlled substance or prohibited chemical. *See id.* CBP may also administratively forfeit prohibited merchandise, monetary instruments as defined by 31 U.S.C. 5312(a)(3), or other property that does not exceed \$500,000 in value.¹ *Id.*

The procedural aspects of the administrative forfeiture process are governed by one of two statutes. The first statute is Section 2 of the Civil Asset Forfeiture Reform Act of 2000 (CAFRA) (Pub. L. 106-185, 114 Stat. 202), codified at 18 U.S.C. 983. CAFRA provides certain procedures that CBP must follow when proceeding with a seizure and forfeiture under that statutory authority. *See also* 19 CFR Part 162, Subpart H (CBP regulations implementing CAFRA as it applies to seizures made by CBP). CAFRA does not apply, however, to all CBP seizures.² When CAFRA does not apply, the procedural aspects of the seizure and forfeiture process are governed by the Tariff Act of 1930, as amended (codified at 19 U.S.C. 1600, *et seq.*), and CBP's regulations at 19 CFR parts 162 and 171. Although CAFRA and the Tariff Act of 1930, as amended, specify

¹ If the seized property is not eligible for an administrative forfeiture process, CBP will refer the case for judicial forfeiture. *See* 19 U.S.C. 1610; 19 CFR 162.32(c).

² CAFRA does not apply to seizures authorized under the Tariff Act of 1930, as amended, or any other provision of law codified in title 19, the Internal Revenue Code of 1986, 26 U.S.C. 1, *et seq.*, the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301, *et seq.*), the Trading with the Enemy Act (50 U.S.C. 4301, *et seq.*), the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*), and Section 1 of Title VI of the Act of June 15, 1917 (40 Stat. 233, 22 U.S.C. 401).

different procedures and timeframes, the general administrative forfeiture process is the same under both statutes. A brief description of that process follows.

CBP initiates the administrative forfeiture process by mailing a Notice of Seizure to any party it identifies as potentially having an interest in the property. *See* 19 CFR 162.31, 162.92. The Notice of Seizure provides notice of the seizure and outlines the options for responding. After receiving the Notice of Seizure, a party interested in seeking relief must timely file a claim or a petition with CBP or make an offer in compromise.³

In addition to the Notice of Seizure, which is mailed to interested parties, CBP also publishes a Notice of Seizure and Intent to Forfeit on an official government forfeiture website (available at www.forfeiture.gov). The purpose of the Notice of Seizure and Intent to Forfeit is to provide notice to the public of the seizure and impending administrative forfeiture and allow any interested party who did not receive a Notice of Seizure to file a claim with CBP. *See* 19 U.S.C. 1607; 19 CFR 162.45(b). CBP publishes the Notice of Seizure and Intent to Forfeit on the government website for at least 30 consecutive days. 19 CFR 162.45(b). For property valued at \$5,000 or less, CBP also posts the Notice of Seizure and Intent to Forfeit for three successive weeks in a conspicuous place that is accessible to the public at the appropriate U.S. Customhouse or U.S. Border Patrol Station or Sector office. 19 CFR 162.45(b)(2).

Any party seeking relief from the seizure and administrative forfeiture, and who did not receive a Notice of Seizure, may file a claim with CBP but the claim must be timely. *See* 18 U.S.C. 983(a)(2); 19 U.S.C. 1608; *see also* 19 CFR 162.47(a), 162.94(b).

³ For seizures under CAFRA, an interested party must file a claim within 35 calendar days after the date the notice of seizure is mailed. 19 CFR 162.94(b). Filing a claim means that the seizure will be transferred to a court for a judicial forfeiture process. *See* 19 CFR 162.94(f). For CAFRA and non-CAFRA seizures, an interested party must file a petition within 30 days from the date that the Notice of Seizure is mailed. 19 CFR 171.2(b). CBP will process the petition according to 19 CFR Part 171. Additionally, at any time prior to forfeiture, an interested party may make an offer in compromise in accordance with 19 U.S.C. 1617 and 19 CFR 161.5. *See also* 19 CFR 171.31.

For seizures subject to CAFRA, where the notice of seizure is not received, the party must file the claim within 30 calendar days after the date of final publication of the Notice of Seizure and Intent to Forfeit. 19 CFR 162.94(b). For all other seizures, the party must file a claim within 20 days from the date of the first publication of the Notice of Seizure and Intent to Forfeit and must include a cash bond, unless CBP has waived the bond requirement. *See* 19 U.S.C. 1608; 19 CFR 162.47. The applicable deadline is specified in the Notice of Seizure and Intent to Forfeit.

If no action is taken by interested parties in response to either the Notice of Seizure or the Notice of Seizure and Intent to Forfeit (or if CBP denies a petition or offer in compromise), CBP will execute a Declaration of Administrative Forfeiture declaring the property forfeited and transferring full title of the forfeited property to CBP.

It has been CBP's practice to first mail the Notice of Seizure to any party identified by CBP as potentially having an interest in the property and then wait either for a party to file a claim or petition or for those respective timeframes to expire before publishing the Notice of Seizure and Intent to Forfeit. Once the deadline for filing a claim or petition has passed (or the administrative process has been exhausted), CBP has historically published the Notice of Seizure and Intent to Forfeit on the official government forfeiture website and, if required, posted it at the appropriate U.S. Customhouse or U.S. Border Patrol Station or Sector office.

New Publication Timeline for the Notice of Seizure and Intent to Forfeit

This notice announces that CBP now will publish a Notice of Seizure and Intent to Forfeit on the official government forfeiture website (and post the notice at the relevant U.S. Customhouse or U.S. Border Patrol Station or Sector office, if applicable) at approximately the same time that it first sends a written Notice of Seizure to the party or parties identified as potentially having an interest in the property. CBP will no longer wait for the timeframe for filing a claim or petition to expire before publishing or posting

the Notice of Seizure and Intent to Forfeit. This means that both the parties identified by CBP as potentially having an interest in the property and the public will be notified of the seizure and impending administrative forfeiture at approximately the same time.

This new publication timeline will apply to all property seized by CBP and eligible for administrative forfeiture, including seizures governed by CAFRA and by the Tariff Act of 1930, as amended. This includes seizures processed by CBP on behalf of U.S. Immigration and Customs Enforcement, Homeland Security Investigations. The new publication timeline does not apply to Schedule I and Schedule II controlled substances, which are summarily forfeited without notice. *See* 21 U.S.C. 881(f) and 19 CFR 162.45a.

This change will enable CBP to process seizures and forfeitures more efficiently. By notifying the public earlier in the process, all parties with a potential interest in the property will be identified earlier. Additionally, CBP expects that the overall processing time for seizures will decrease, allowing it to spend fewer resources on storage, inventory, and other administrative functions related to managing seized property.

The new publication timeline for the Notice of Seizure and Intent to Forfeit does not affect the rights or obligations of any interested party. This document does not change any of the respective deadlines for filing for relief, either in response to a Notice of Seizure or a Notice of Seizure and Intent to Forfeit. All interested parties will continue to be subject to the applicable requirements and deadlines specified by statute and in CBP's regulations. CBP is not changing any of its regulations or other procedures at this time.

Pete Flores,

Executive Assistant Commissioner,

Office of Field Operations,

U.S. Customs and Border Protection.

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